

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

United States of America, : Case No. 3:08CV277

Plaintiff, :

v. : MAGISTRATE'S REPORT
AND RECOMMENDATION

Darren L. McCormick, :

Defendant. :

This action to recover the balance due on a student loan filed pursuant to 12 U.S.C. § 821 was referred to the undersigned magistrate for pretrial management and the filing of a report and recommendation. Pending is Plaintiff's Motion for Default Judgment (Docket No. 6).

For the reasons that follow, the undersigned recommends that default judgment be granted.

This action was filed on February 5, 2008, naming Darren L. McCormick as defendant. Pursuant to the Certificate of Indebtedness attached to the complaint as Exhibit A, the undersigned finds that Defendant Darren L. McCormick owes on Count I the amount of \$1,467.81 principal, plus interest of \$1,652.56 accrued through November 14, 2007; and interest at 8% per annum from filing of the complaint to the date of judgment; and on Count II the amount of \$26,237.09 principal, plus interest of \$26,488.68 accrued through November 14, 2007; and interest of 9% per annum from the filing of the complaint to the date of judgment; plus interest from the date of judgment at the legal rate in effect on the date of judgment until paid in full, costs of suit and such other relief as deemed just.

The undersigned further finds that the summons and complaint were properly served upon defendant; however, no answer or other responsive pleading has been filed. Consequently, the Clerk has entered default against Defendant Darren L. McCormick.

Accordingly the magistrate recommends that unless the sums found to be due to Plaintiff are fully paid within ten days from the date of the judgment entry, a judgment for the amount due as set forth in the Declaration of Amount Due be entered against Darren L. McCormick.

So ordered.

/s/ Vernelis K. Armstrong
U. S. Magistrate Judge

Dated: 09/10/08

Notice

Please take notice that as of this date the Magistrate's Report and Recommendation attached hereto has been filed.

Please be advised that, pursuant to Rule 72.3(b) of the Local Rules for this district, the parties have ten (10) days after being served in which to file objections to said Report and Recommendation. A party desiring to respond to an objection must do so within ten (10) days after the objection has been served.

Please be further advised that the Sixth Circuit Court of Appeals, in *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981) held that failure to file a timely objection to a Magistrate's Report and Recommendation foreclosed appeal to the Court of Appeals. In *Thomas v. Arn*, 106 S.Ct. 466 (1985), the Supreme Court upheld that authority of the Court of Appeals to condition the right of

appeal on the filing of timely objections to a Report and Recommendation.

There being no opposition to the Report and Recommendation, and on de novo review, it is hereby

Ordered that the Report and Recommendation be, and the same hereby is granted. So Ordered.

s/ James G. Carr
Chief Judge